



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Select Cases before the King's Council, 1243-1482. Edited for the Selden Society by I. S. LEADAM and J. F. BALDWIN. [Publications of the Selden Society, vol. XXVI.] (Cambridge: Harvard University Press. 1918. Pp. cxvii, 156.)

THOUGH the king's council has been a perennial theme of historical study since the time of Fortescue, the present volume is the first attempt to present a representative collection of cases. The council was not a court of record, and it maintained no system of preserving records of litigation. Occasional records of cases appear on the chancery rolls, and among the manuscript collections in the Public Record Office are preserved some petitions to the council. If such a petition chances to be endorsed, it gives a record, often the only record, of the case. The difficulty of recovering these cases lies in the fact that there is no one place in which they may certainly be found. It is significant that Mr. Leadam was first stimulated to begin the search for conciliar cases by finding four such cases among the files of the Star Chamber proceedings. At the time of his death he had transcribed and edited eight of the cases in the present volume. Professor Baldwin then took up the work and carried it to completion. It is no small achievement that the editors have been able to draw, from material so unpromising, a collection of cases which are important not alone for the history of the council but for the history of English law as well.

The cases, thirty-nine in number, cover a period of 250 years. They have been chosen to represent the various aspects of the work of the council, and the effort of the editors has been to select cases which have a special bearing upon some larger problem. As the council was no mere court and drew no sharp distinction between its legislative and judicial functions, the presentation of cases which relate to statutes and matters of public policy is warranted. It is this which gives interest to the *Bishop of Sabina v. Bedewynde* (p. 18) which led to the Statute of Provisors; and *Taylor v. Rochester* (p. 2) which gives an interesting glimpse of the judicial scandal of the reign of Edward I. Other cases relate to subjects so diverse as disseizin, the outbreak of the London mercers against the Lombards, the office of the escheator, the claims of a papal provisor, misconduct by sheriffs, the Bedford riot, etc. *Esturmay v. Courtenay* (p. 77) is an early case of maintenance before the council, the forerunner of the type in the court of Star Chamber. Through these petitions in fact may be seen the gradual growth of the council's jurisdiction which was acquired through custom and acquiescence before the statute of 3 Henry VII. It is somewhat disappointing to find few cases that throw any light upon the relation of the council and chancery.

In the history of private law great interest attaches to the influence of the council upon the development of equitable doctrines. Professor Baldwin has given pertinent warning of the danger of stating prematurely the separate formation of the court of chancery. He shows very

clearly that the council did not receive criminal in preference to civil cases, and that even after the chancellor acquired a certain independence the attendance of the council in "equitable" cases was regarded as necessary. Likewise he has properly called attention to the Petition of the Hansards (p. 76) which gives the earliest recorded decree upon a petition to the chancellor, the decree being by the council. The institutional connection between the two courts is clear enough, but that the council gave expression to equitable principles is not plainly demonstrated. One suspects that the editor has not quite realized the legal situation in some of the cases. For example *Hogonana v. A Friar Austin* (p. 85) is cited as an example of "trusteeship in goods and chattels". Now the petitioner made no effort to enforce a trust, and quite properly; for there was none. What did in fact exist was either an obligation to account or a bailment. The same criticism applies to the treatment of *Norton v. Colyngborne* (p. 115). The appearance of cases before the council for which in theory the common law provided a remedy has little significance in the history of equity. On the other hand *Fouquire v. Nicole* (p. 118) deserves more comment than it receives. An important phrase is omitted in the translation, and the editor appears to have misconceived the nature of the cause of action. Moreover the use in the petitions of such expressions as "droit et raison" (p. 83), "resoun et bon faye" (p. 86, 95), "comme reson demande" (p. 97), "contra droit et raison et la promess" (p. 119) affords a clue which might have been followed with interesting results.

The editor has written an interesting and valuable introduction in which he has treated the jurisdiction of the council, its procedure, and its relation to other courts. This is followed by a detailed consideration of the principal cases. Our only criticism of the method of procedure is that there is an inclination to regard a case as an opportunity for an historical excursus, and that the notes give an immense amount of minute information which has little or no bearing upon legal questions. In view of the purpose for which the Selden Society was established, there may be some question whether it would not have been better to give a larger number of cases less elaborately edited. But the work as a whole possesses an enduring value and bears tribute to the learning and industry of the editor.

WILLARD BARBOUR.

Parliament and the Taxpayer. By E. H. DAVENPORT. With an Introduction by the Right Hon. HERBERT SAMUEL. (London: Skeffington and Son. 1918. Pp. 256. 6 sh.)

THE writing of a book on the subject of Parliament and the taxpayer from early times to the present day is a pretty large order to accomplish within the scope of 50,000 words. Such a task, so narrowly confined, leads to certain dogmatic methods of presentation that leave the reader somewhat in a quandary about the proof. The author might have as-